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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Kannappan	:	
Application No. 10/812,175	:	DECISION ON PETITION
Filed: March 29, 2004	:	PURSUANT TO
Attorney Docket No. 01-7131	:	37 C.F.R. § 1.181(A)
Title: SPEECH TO DTMF	:	
CONVERSION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on April 22, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 18, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 19, 2007. A notice of abandonment was mailed on January 11, 2008.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

Decision on Petition pursuant to 37 C.F.R. § 1.181(a)

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has alleged that a response was timely filed. Petitioner has further included a copy of this response (an amendment along with a petition for a three-month extension of time), and it is noted that it contains a certificate of mailing dated December 18, 2007. Petitioner has also included a statement that attests on a personal knowledge basis to the previous timely mailing.

Furthermore, a copy of this response has been located in the electronic file (received in the Office on January 14, 2008, subsequent to the mailing of the notice of abandonment)¹.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

¹ It is noted that Office records confirm that the fee that is associated with the filing of a petition for a three-month extension of time was received in the Office on January 15, 2008.

Decision on Petition pursuant to 37 C.F.R. § 1.181(a)

change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition (originally received in the Office on January 14, 2008) can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).